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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,946	10/23/2001	Mark Allen Smerznak	8313	4730

27752 7590 07/18/2003

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
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EXAMINER

WEBB, GREGORY E

ART UNIT	PAPER NUMBER
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1751

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DATE MAILED: 07/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 10/003,946	Applicant(s) SMERZNAK ET AL.	
Examiner Jeffrey B. Robertson	Art Unit 1712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2001 .
- 2a) ☐ This action is FINAL.
- 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-47 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-16, 18-29, 40-43, 45-47, drawn to liquid detergent and laundry compositions and methods for increasing their viscosity, classified in class 510, subclass 418.
 - II. Claim 17, drawn to a method of treating a surface, classified in class 510, subclass 109.
 - III. Claims 30-39, 44, drawn to a stabilizing system/liquid composition, classified in class 510, subclass 405.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the detergent can be used to treat other substrates besides fabric, such as dishes. The composition can also be used as hand soap.
3. Inventions I and III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2)

that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because there is no crystalline hydroxy-containing stabilizer required. The subcombination has separate utility such as a stabilizing system for hand creams.

For invention III, the examiner is unsure if applicant is claiming a stabilizing system or a liquid composition. It is unclear whether the stabilizing system requires the liquid composition to be present or if the thread-like structuring system is the stabilizing system. For purposes of restriction, these claims have been grouped separately and treated as a stabilizing system.

4. Inventions II and III are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case invention III may be used as a stabilizer for hand creams.

5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

6. Claims 1, 2, 13, 14, 16, 18, 19, 24-28, 29, 40-43, 45, 46 in Group I and claims 30-31, 35-39, and 44 in Group III are generic to a plurality of disclosed patentably distinct species comprising:

Art Unit: 1712

Fabric Substantive agents:

- A. silicon-containing moiety, claim 3;
- B. cationic charged moiety, claim 4;
- C. nitrogen-containing moiety, claim 5;
- D. polyethylene glycol moiety, claim 6;

Crystalline hydroxyl-containing materials:

- 1. stabilizers containing fatty ester or fatty soap moiety, claim 7;
- 2. stabilizers derived from castor oil, claim 8;
- 3. stabilizers of the formula in i), claims 9, 10-12, 20, 21-23 in Group I, and claims 32, 33-35 in Group III;
- 4. stabilizers of the formula in ii), claims 9, 20 in Group I and claim 32 in Group III;
- 5. stabilizers of mixtures of i) and ii), claims 9, 20 in Group I and claim 32 in Group III;
- 6. materials of formula b), claim 47.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.


7. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).
8. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ^{Gregory E. Webb} ~~Jeffrey B. Robertson~~ whose telephone number is (703) ~~305-4945~~ ~~306-5929~~. The examiner can normally be reached on Mon-Fri 7:00-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert A. Dawson can be reached on (703) 308-2340. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

JBR 
January 9, 2003

 Gregory E. Webb
AV 1751